

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SONIA PEREZ *on behalf of plaintiff*
and all others similarly situated,

Plaintiff,

-against-

**MEMORANDUM OF
DECISION & ORDER**
2:17-cv-6018 (ADS)(ARL)

CENTRAL CREDIT SERVICES, LLC, *doing
business as* CENTRAL CREDIT SERVICES
OF FL LLC,

Defendant.

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APPEARANCES:

Kleinman, LLC

Co-Attorneys for the Plaintiff

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By: Kristen H. Smith, Esq.,
Bryan C. Shartle, Esq., Of Counsel

SPATT, District Judge:

Sonia Perez (“Perez” or the “Plaintiff”) commenced this putative class action against the Defendant, Central Credit Services LLC, doing business as Central Credit Services of FL LLC (“CCS” or the “Defendant”), alleging violations of the Telephone Consumer Protection Act of

1991 (“TCPA”), 47 U.S.C. §§ 227, *et seq.* Presently before the Court is a motion by the Defendant requesting that the Court stay the case until the United States Court of Appeals for the Second Circuit (the “Second Circuit”) issues decisions in both *Yuri Kolbasyuk, on behalf of himself and all others similarly situated, v. Capital Management Services, LP*, Case No. 18-1260 (“*Kolbasyuk*”), and (2) *Cindy Corwise, on behalf of herself and all others similarly situated v. FMS Investment Corp.*, Case No. 18-1292 (“*Corwise*”), two of the cases currently pending before it.

The issues before the Second Circuit are unquestionably relevant to the legal issues present in the case at bar. As the Defendant alleges in its motion papers, what constitutes the “amount of debt” under the TCPA is quite relevant to the instant case.

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163, 81 L. Ed. 153 (1936). There are five factors that the court should consider when deciding whether to exercise its discretion to enter a stay:

(1) the private interests of the plaintiffs in proceeding expeditiously with the civil litigation as balanced against the prejudice to the plaintiffs if delayed; (2) the private interests of and burden on the defendants; (3) the interests of the courts; (4) the interests of persons not parties to the civil litigation; and (5) the public interest.

Fairbank Reconstruction Corp. v. Greater Omaha Packaging Co., No. 13-cv-907, 2014 WL 693001, at *1 (W.D.N.Y. 2014).

Assessing the various interests, the Court finds that a stay in this case is warranted pending the Second Circuit’s decision in *Kolbasyuk* and *Corwise*. Although it is not immediately clear how long before the Second Circuit issues its decisions, such a short-term stay is unlikely to adversely impact the parties in this case.

Moreover, the Court and the parties share an interest in conserving resources while a case is pending that may clarify issues raised in the instant case. This will minimize the risk of *de minimis* motion practice. There are no issues that affect the public interest or non-parties to this case, that this Court is aware of, that warrant cause for restraint.

CONCLUSION

For the foregoing reasons, the Defendant's [22] motion to stay is granted.

The parties shall file a joint letter to the Court within seven (7) days of the Second Circuit's decision in both *Kolbasyuk* or *Corwise*.

It is **SO ORDERED**:

Dated: Central Islip, New York

August 11, 2018

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge